

EDMUND G. BROWN JR., Attorney General
of the State of California
JOSE R. GUERRERO, State Bar No. 97276
Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
Senior Legal Analyst
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5579
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2007 449

Jason C. Littleton
1447 N. Wishon
Fresno, CA 93728

A C C U S A T I O N

Respiratory Care Practitioner License Number 23656
Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 23, 2004, the Respiratory Care Board issued Respiratory Care Practitioner License Number 23656 to Jason C. Littleton (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 3710 of the Code states: “The Respiratory Care Board of
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
3 8.3, the Respiratory Care Practice Act].”

4 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6 6. Section 3750 of the Code states:

7 “The board may order the denial, suspension or revocation of, or the imposition of
8 probationary conditions upon, a license issued under this chapter, for any of the following
9 causes:

10 “(d) Conviction of a crime that substantially relates to the qualifications,
11 functions, or duties of a respiratory care practitioner. The record of conviction or a
12 certified copy thereof shall be conclusive evidence of the conviction.

13 “(g) Conviction of a violation of any of the provisions of this chapter or of any
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
16 violate any provision or term of this chapter or of any provision of Division 2
17 (commencing with Section 500).

18 7. Section 3752 of the Code states:

19 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
20 made to a charge of any offense which substantially relates to the qualifications,
21 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
22 the meaning of this article. The board shall order the license suspended or revoked, or
23 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
24 conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
27 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
28 accusation, information, or indictment.”

8. California Code of Regulations (CCR) title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

“(c) Conviction of a crime involving driving under the influence or reckless driving while under the influence.”

COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

10. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

11. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction)

3 12. Respondent is subject to disciplinary action under code sections 3750(d)
4 and 3752 [substantially-related conviction], CCR 1399.370(a) and (c) in that he was convicted of
5 driving under the influence of alcohol. The circumstances are as follows:

6 13. On or about November 17, 2006, at approximately 1:30 a.m., Fresno
7 Police Officer Tuckers and Phelps observed a vehicle driving about 50-55 miles per hour.
8 Officer Phelps advised Officer Tucker that the vehicle failed to stop for a red traffic signal.
9 Officer Tucker followed the vehicle, and observed that it was traveling about 50-60 miles per
10 hour in a 40 mile per hour zone. Officer Tucker initiated a traffic stop, and contacted the driver,
11 who was identified as respondent by his California driver's license.

12 A. As Officer Tucker spoke with respondent, he smelled a strong odor of
13 alcohol on respondent's person. Respondent denied drinking any alcohol. Officer Tucker asked
14 respondent to perform field sobriety tests to determine if he was intoxicated. Respondent failed
15 the tests, and Officer Tucker advised him of the implied consent law and asked if he would
16 submit to a breath or blood test. Respondent refused and stated that he would not submit to any
17 test. Officer Tucker arrested respondent for violating Vehicle Code sections 23152(a) [driving
18 under the influence of alcohol or drugs], code section 23152 (b), [driving with a .08% or higher
19 blood alcohol level], code section 21453(a) [failing to stop for a traffic signal], and code section
20 22350 [speeding.]

21 B. Officer Young spoke to a female passenger in respondent's vehicle, who
22 admitted that she and respondent had been drinking alcohol.

23 C. Officer Tucker transported respondent to the traffic office, where he was
24 again informed of the implied consent law, and asked if he would submit to a blood or breath
25 test. Respondent refused. At 2:02 a.m., Officer Tucker proceeded with a forced blood draw on
26 respondent, and two vials of blood were obtained. The blood sample tested positive for ethyl
27 alcohol in the amount of .20%.

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14. On or about February 8, 2007, a criminal misdemeanor complaint titled *People of the State of California vs. Jason Christopher Littleton*, case no. M07912330, was filed in Superior Court, Fresno County. Count 1 charged respondent with a violation of Vehicle Code section 23152(b), driving with a .08% or higher blood alcohol level. Count 2 charged respondent with a violation of Vehicle Code section 23152(a), driving under the influence of alcohol or drugs.

15. On or about April 25, 2007, respondent was convicted on his plea of guilty to a violation of Vehicle Code section 23152(b) [driving with a .08% or higher blood alcohol level.] Court documents noted that respondent's blood alcohol level was .20%. He was placed on three years probation, ordered to serve 180 days in jail suspended except for 10 days, pay fines, attend and complete an 18 month multiple offender alcohol program, attend a complete a "Scared Stiff" class, attend and complete one Alcoholics Anonymous meeting per week, and standard terms and conditions for alcohol offenses.

16. Therefore, respondent's license is subject to discipline based on his conviction for driving under the influence, which is substantially related to the qualifications, functions and duties of a respiratory care practitioner, and is in violation of code sections 3750(d) and 3752, CCR 1399.370(a) and (c).

MATTER IN AGGRAVATION

17. On December 18, 1998, in Superior Court of California, Fresno County, case no. 152327, Respondent was convicted of a violation of Vehicle Code section 23152(b) [driving with a .08% or higher blood alcohol level.]

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 23656, issued to Jason C. Littleton.

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2. Ordering Jason C. Littleton to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

3. Taking such other and further action as deemed necessary and proper.

DATED: October 14, 2008

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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